

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

ISLAND SOFTWARE & COMPUTER
SERVICE, INC.,

Plaintiff,

- against -

MICROSOFT CORPORATION,

Defendant.

JUDGMENT

CV-01-0750 (WDW)

MICROSOFT CORPORATION,

Counter-Claimant,

- against -

ISLAND SOFTWARE & COMPUTER
SERVICE, INC. and MICHAEL BRUNNER,

Counter-Defendants.

A Memorandum and Order of Honorable William D. Wall, United States Magistrate Judge, having been filed on January 24, 2003, granting the motion for summary judgment filed by defendant/counter-claimant, Microsoft Corporation, on its copyright infringement, trademark infringement, and false designation claims; denying the motion for summary judgment filed by defendant/counter-claimant, Microsoft Corporation, on its New York State unfair competition claim; awarding defendant/counter-claimant, Microsoft Corporation, the amount of \$240,000 in statutory damages under the Copyright Act; denying defendant/counter-claimant, Microsoft Corporation, statutory damages under the Lanham Act; and directing defendant/counter-claimant, Microsoft Corporation, to advise whether it will pursue the New York State unfair competition claim; and a further Order of the Court, having been filed on

February 14, 2003, dismissing the New York State unfair competition claim by defendant/counter-claimant, Microsoft Corporation; and a further Order of the Court, having been filed on July 9, 2003, denying the motions for reconsideration of the Court's Order dated January 24, 2003 filed by defendant/counter-claimant, Microsoft Corporation and plaintiff/counter-defendant, Island Software & Computer Service, Inc.; and a further Order of the Court, having been filed on December 19, 2003, awarding defendant/counter-claimant, Microsoft Corporation, the amounts of \$56,823.80 in attorney's fees and \$11,131.26 in costs; and a further Order of the Court, having been filed on December 19, 2003, granting a permanent injunction (copy attached) in favor of defendant/counter-claimant, Microsoft Corporation, and against plaintiff/counter-defendant, Island Software & Computer Service, Inc., and counter-defendant, Michael Brunner, it is

ORDERED AND ADJUDGED that the motion for summary judgment filed by defendant/counter-claimant, Microsoft Corporation, on its copyright infringement, trademark infringement, and false designation claims is granted; that the motion for summary judgment filed by defendant/counter-claimant, Microsoft Corporation, on its New York State unfair competition claim is denied; that the New York State unfair competition claim by defendant/counter-claimant, Microsoft Corporation, is dismissed; that the motions for reconsideration of the Court's Order dated January 24, 2003 filed by defendant/counter-claimant, Microsoft Corporation and plaintiff/counter-defendant, Island Software & Computer Service, are denied; and that defendant/counter-claimant, Microsoft Corporation, is not awarded damages under the Lanham Act, and it is

ORDERED AND ADJUDGED that judgment is hereby entered in favor of defendant/counter-claimant, Microsoft Corporation, and against plaintiff/counter-defendant, Island Software & Computer Service, Inc., and counter-defendant, Michael Brunner, in the amounts of \$240,000 in statutory damages under the Copyright Act, \$56,823.80 in attorney's fees and \$11,131.26 in costs; and that a permanent injunction as set forth in the attached Order is granted in favor of defendant/counter-claimant, Microsoft Corporation, and against plaintiff/counter-defendant, Island Software & Computer Service, Inc., and counter-defendant, Michael Brunner.

Dated: Long Island, New York
December 24, 2003

ROBERT C. HEINEMANN
Clerk of the Court

By: /s/ Ralph Branciforte
Deputy Clerk

CM

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DEC 19 2003

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ISLAND SOFTWARE & COMPUTER SERVICE INC.,	:	
	:	Case No.: 01 Civ. 750-(JM) (WDW)
Plaintiff,	:	
	:	
-against-	:	
MICROSOFT CORPORATION,	:	
	:	
Defendant.	:	
-----	:	
MICROSOFT CORPORATION,	:	
	:	
Counterclaimant,	:	
	:	
-against-	:	
ISLAND SOFTWARE & COMPUTER SERVICE INC.; and MICHAEL BRUNNER,	:	
	:	
Counterdefendants.	:	
-----	X	

^{wdw}
~~PROPOSED~~ PERMANENT INJUNCTION AGAINST ISLAND SOFTWARE & COMPUTER SERVICE INC. AND MICHAEL BRUNNER

GOOD CAUSE HAVING BEEN SHOWN THEREFORE, IT IS HEREBY ORDERED that Plaintiff/Counterdefendant Island Software & Computer Service Inc., a New York corporation, and Counterdefendant Michael Brunner, an individual (collectively "Counterdefendants"), their directors, principals, officers, agents, servants, employees, representatives, successors and assigns, and all those persons or entities acting in concert or participation with them, shall be and hereby are **PERMANENTLY ENJOINED** and restrained

from:

(a) imitating, copying, or making any other infringing use or infringing distribution of software programs, components, or items protected by Microsoft Corporation's ("Microsoft") registered trademarks and service marks, including, but not limited to, the following Trademark and/or Service Mark Registration Numbers:

- (1) 1,256,083 ("MICROSOFT");
- (2) 1,200,236 ("MICROSOFT");
- (3) 1,872,264 ("WINDOWS");
- (4) 1,816,354 (WINDOWS FLAG LOGO);
- (5) 1,815,350 (COLORED WINDOWS LOGO);
- (6) 1,982,562 (PUZZLE PIECE LOGO);
- (7) 1,475,795 ("POWERPOINT");
- (8) 1,741,086 ("MICROSOFT ACCESS"); and
- (9) 2,188,125 ("OUTLOOK");

or the software programs, components, items or things protected by the following Certificate of Copyright Registration Nos:

- (1) TX 4-687-920 (Microsoft Windows 98);
- (2) TX 4-905-936 (Microsoft Office 2000 Professional);
- (3) TX 4-905-950 (Microsoft Access 2000);
- (4) TX 4-905-949 (Microsoft Excel 2000);
- (5) TX 4-906-019 (Microsoft Outlook 2000);
- (6) TX 4-905-952 (Microsoft PowerPoint 2000);

(7) TX 4-905-937 (Microsoft Publisher 2000); and

(8) TX 4-905-951 (Microsoft Word 2000);

or any other works now or hereafter protected by any of Microsoft's trademarks or copyrights;

(b) manufacturing, assembling, producing, distributing, offering for distribution, circulating, selling, offering for sale, advertising, importing, promoting, or displaying any software program, component, item or thing bearing any simulation, reproduction, counterfeit, copy, or colorable imitation of any of Microsoft's registered trademarks or service mark, including, but not limited to, the Trademark and Service Mark Registration Nos. listed in Paragraph (a) above;

(c) using any simulation, reproduction, counterfeit, copy, or colorable imitation of Microsoft's registered trademarks or service mark including, but not limited to, the Trademark and Service Mark Registration Nos. listed in Paragraph (a) above, in connection with the manufacture, distribution, offering for distribution, sale, offering for sale, advertisement, promotion, or display of any software, component, item or thing not authorized or licensed by Microsoft;

(d) using any false designation of origin or false description which can or is likely to lead the trade or public or individuals erroneously to believe that any software, component, item, or thing that has been manufactured, produced, distributed, offered for distribution, advertised, promoted, displayed, licensed, sponsored, approved, or authorized by or for Microsoft, when such is not true in fact;

(e) using the names, logos, or other variations thereof any of Microsoft's copyright and/or trademark-protected software programs in any of Counterdefendants' trade or corporate

names;

(f) disposing of or destroying any documents or related materials that indicate, reference, or otherwise evidence that Counterdefendants have installed, marketed, manufactured, distributed, advertised, and/or duplicated counterfeit or infringing software programs or other components or items which either bear any of Microsoft's trademarks or service mark, or incorporate or include any of Microsoft's copyrighted software programs and/or components, or any other simulations, copies, colorable imitations, or counterfeits of any of Microsoft's copyrighted and/or trademark-protected software programs and/or components;

(g) engaging in any other activity constituting an infringement of any of Microsoft's trademarks, service mark and/or copyrights, or of Microsoft's rights in, or right to use or to exploit these trademarks, service mark, and/or copyrights; and

(h) assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in paragraphs (a) through (g) above.

IT IS SO ORDERED:

12/19/03
Date

William D. Wall
WILLIAM D. WALL
United States Magistrate Judge